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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,528	02/17/2004	Hiromi Takasaki	44471/297489	2434

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA, GA 30309

EXAMINER

BRINSON, PATRICK F

ART UNIT PAPER NUMBER

3754

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/781,528	Applicant(s) TAKASAKI, HIROMI	
	Examiner Patrick F. Brinson	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 5-16 and 21-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 17-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/16/04 & 2/17/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-4 and 17-20, drawn to a double pipe, classified in class 138, subclass 108.
 - II. Claims 5-16 and 21-23, drawn to a method of manufacturing a double pipe, classified in class 264, subclass 267.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions of Groups I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product as claimed can be made by another and materially different process such as one not requiring the steps of spirally winding two straight pipes around each other and releasing the wound two pipes from each other so that the two pipes may serve as the spiral inner pipe, as is required in the invention of Group II.

3. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Applicant's attorney, **Ms. Brenda O. Holmes** on Thursday, April 14, 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-4 and 17-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 5-16 and 21-23 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter recited in claims 18 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended."

If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

6. Claim 4 is objected to because of the following informalities: Claim 4 recites "...the outer pipe by a resilient restoration force of the spiral that outwardly against the inner pipe". This portion of the claim is not clear. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

3,250,420 to **Kohn**

The patent to **Kohn** discloses a double pipe comprising an outer pipe (11) and an inner pipe (25) having a spiral shape configured to be held by a circumferential face of the outer pipe. Col. 2, lines 65-73 and col. 3, lines 1-7 disclose the method of inserting the inner pipe into the outer pipe, and it is disclosed that prior to installation the spiral of the inner pipe is formed of a greater diameter than an inner diameter of the outer pipe, such that the inner pipe is fixed in the outer pipe by a resilient restoration force of the spiral that outwardly pushes against the inner pipe, as recited in claim 4.

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3,750,058 to **Bankert, Jr. et al.**

The patent to **Bankert, Jr. et al.** discloses a waveguide structure, fig. 1, including an outer pipe (2) and an inner pipe (5) having a spiral shape configured to be held by an inner circumferential face of the outer pipe, as

recited in claim 1. Fig. 6 illustrates a different embodiment wherein the outer pipe is curved to hold the inner pipe at each curved part, as recited in claim 2.

9. Claims 17 are rejected under 35 U.S.C. 102(b) as being anticipated by **DE 144,701**.

The '701 reference discloses a double pipe, fig. 3, including an outer pipe (A¹) and an inner pipe (C) having a wavy shape configured to be held by an inner circumferential face of the outer pipe.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Bankert, Jr. et al.** in view of U.S. 2,259,433 to **Kitto**.

The patent to **Bankert, Jr. et al.** discloses the recited structure with the exception of disclosing the outer pipe being locally or wholly crushed inwardly in a diametrical direction to hold the inner pipe at each crushed part. The patent to **Kitto** discloses a double pipe in which the outer pipe (13) is locally

crushed inwardly, providing indentations (25) that hold the inner pipe at each crushed part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the outer pipe of **Bankert, Jr. et al.** to have indentations as suggested by **Kitto** wherein it is known in the art to provide indentations to outer pipes in order to hold and secure inner pipes therein.

11. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **DE '701** in view of **Kitto**.

The '701 reference discloses the recited structure with the exception of disclosing the outer pipe being curved or locally/wholly crushed inwardly in a diametrical direction to hold the inner pipe at each crushed part. The patent to **Kitto** discloses a double pipe in which the outer pipe (13) curved and is locally crushed inwardly, providing indentations (25) that hold the inner pipe at each crushed part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the outer pipe of **Bankert, Jr. et al.** to have a curved configuration and to have indentations, both as suggested by **Kitto** wherein it is known in the art to provide indentations to outer pipes in order to hold and secure inner pipes therein. A curved outer pipe would hold the wavy inner pipe at the curved portions.

12. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kohn** in view of **DE '407**.

The patent to **Kohn** discloses a double pipe, as discussed in preceding paragraph # 7, but does not disclose the inner pipe as being "wavy". The **'407** reference discloses a double pipe including an inner pipe that has a wavy configuration. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the inner pipe of **Kohn** to have a wavy shape, as suggested by the **'407** reference wherein it is known in the art that the inner pipe of a double pipe may alternately have a spiral or wavy configuration in order to frictionally secure the inner pipe against the inner surface of the outer pipe.


Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Darling, Bondon, Watson et al., Dryden et al., Beran are all pertinent to Applicant's invention in disclosing double pipes having an inner pipe that is spirally shaped within the outer pipe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Patrick F. Brinson
Primary Examiner
Art Unit 3754

P.F. Brinson
April 15, 2005